

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JAMIE MILES	:	
	:	CIVIL ACTION
v.	:	No. 11-4040
	:	
CITY OF PHILADELPHIA, et al.	:	
	:	

ORDER

AND NOW, this 10th day of January, 2013, upon consideration of a partial motion to dismiss the amended complaint of plaintiff Jamie Miles filed by defendants the City of Philadelphia, Commissioner Charles Ramsey, Captain Frank Gramlich, Captain Dennis Gallagher, Sergeant Steve Naughton and Corporal Karen Preston and plaintiff's response thereto and consistent with the accompanying memorandum of law, it is ORDERED that the motion is GRANTED and:

- (1) Count I of plaintiff's third amended complaint, which asserts a claim for First Amendment retaliation against Ramsey, Gramlich and Gallagher is DISMISSED with prejudice and STRICKEN¹ from the third amended complaint;
- (2) Count II, which asserts a Monell claim against the City of Philadelphia is DISMISSED with prejudice and STRICKEN from the third amended complaint; and

¹ Pursuant to Rule 12(f) of the Federal Rules of Civil Procedure, "[t]he court may strike from a pleading any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." Fed. R. Civ. P. 12(f). The court may use its power to strike "to clean up the pleadings, streamline litigation, and avoid unnecessary forays into immaterial matters." McInerney v. Mayer Lumber & Hardware, Inc., 244 F. Supp. 2d 393, 402 (E.D. Pa. 2002).

- (3) Count IV of plaintiff's third amended complaint, which sets forth her claims pursuant to the PHRA, is DISMISSED with prejudice to the extent that it asserts claims against defendants Ramsey and Gallagher;

As a result of this ruling the only claims remaining in this lawsuit are: (1) plaintiff's claim against the City of Philadelphia for employment discrimination/retaliation pursuant to Title VII, 42 U.S.C. § 200e, et seq., as is set forth in Count III of the third amended complaint; and (2) plaintiff's claim for employment discrimination, retaliation, and hostile work environment pursuant to the Pennsylvania Human Relations Act, 43 P.S. §§ 951-963 against the City of Philadelphia, Gallagher, Naughton, Preston and Vega, as is set forth in Count IV of the third amended complaint.

It is ORDERED that on or before January 28, 2013 the City of Philadelphia, Gallagher, Naughton and Preston shall file answers to the remaining claims against them.

It is FURTHER ORDERED that this matter is referred to Magistrate Judge L. Felipe Restrepo for all pretrial proceedings.

s/Thomas N. O'Neill, Jr.
THOMAS N. O'NEILL, JR., J.